

TOWN OF CHEVERLY, MARYLAND MAYOR AND TOWN COUNCIL

> WORKSESSION October 27, 2022 7:30 PM

<u>AGENDA</u>

- 1. Call to Order
- 2. Pledge of Allegiance
- Water Restoration presentation Low Impact Design Center and the Clean Water Partnership will provide an update on stream restoration project and will entertain questions
- **4.** Town Administrator Update Town Administrator Galloway will provide a report to the Mayor and Council
- 5. Introduction of new auditor Town Administrator will introduce Mayor & Council to Lindsey & Associates
- 6. Budget update for year to date actual Town Treasurer Mike Lightfield will provide an update to the Mayor and Council
- 7. Homestead Tax Mayor and Council will continue discussion on Homestead tax credit
- 8. Election ideas/proposals Mayor and Council will discuss lowing voting age to 16 years old
- **9. Council Salaries** Mayor & Council will review previous analysis regarding council salaries
- **10. Update by CM Fry & Garces Regarding Cheverly Station Apartments** -Council members will provide update/feedback from residents at Cheverly Station Apartments.
- **11. Review of November Town Meeting Agenda and Future Requests** Mayor and Town Administrator will offer a forecast of the November Mayor and Council Town Meeting agenda. Mayor will seek Council input on agenda items for consideration for future meetings.
- 12. Adjourn



(*) denotes an agenda item requiring action (typically expressed by a vote) of Mayor and Council.

Please Note: Pursuant to the Annotated Code of Maryland, State Government Article Section 10-508(a), the Council by majority vote may retire to executive or closed session at any time during the meeting. Should the Council retire to executive or closed session; the mayor will announce the reasons and a report will be issued at a future meeting disclosing the reasons for such session.

Zoom Information:

Topic: Cheverly Mayor & Council Work session

Please click the link below to join the webinar:

https://us02web.zoom.us/j/82551558763?pwd=SkU0MDI5TmNWYVBMNXIFVk8vNEp 0UT09

Webinar ID: 825 5155 8763 Passcode: 916656 Or One tap mobile : US: +13017158592,,82551558763# Or Telephone: US: +1 301 715 8592

IN RE: DETAILED SITE PLAN (DSP-21032)

APPLICANT: Nabely Family Trust

AGENT/
CORRESPONDENT:Lawrence N. Taub, Esquire
Nathaniel Forman, Esquire
O'Malley, Miles, Nylen & Gilmore, P.A.
7850 Walker Drive, Suite 310
Greenbelt, MD 20770

STATEMENT OF JUSTIFICATION

I.	RE	EQUEST	1
II.	PR	OPERTY	2
III.	RE	EQUEST FOR APPROVAL UNDER THE PRIOR ZONING ORDINANCE	3
IV.	AN	MENDMENT TO THE TABLE OF USES	4
V.	CC	ONFORMANCE WITH SUBMITTAL REQUIREMENTS	4
VI.	CC	ONFORMANCE WITH THE ZONING ORDINANCE	4
	A.	Conformance with § 27-548.26:	4
	B.	Conformance with § 27-546.19(c):	6
VII	[.	CONCLUSION	8

I. REQUEST

The Applicant hereby requests approval of a Detailed Site Plan ("DSP") to validate the existing "wholesaling or distribution of materials used or produced on the premises" and "contractor's office with outdoor storage" in accordance with Subtitle 27 of the Prince George's Zoning Ordinance ("Zoning Ordinance"), on approximately .501 acres of land, which is located at 5801 Arbor Street, Hyattsville and shown as Lots 1-8, Block 6 of the Tuxedo Subdivision shown in Plat Book A, Plat No. 71 filed among the land records of Prince George's County ("Subject Property" or "Property"). The Subject Property is located on the south side of Arbor Street, approximately 250 feet west of its intersection with 59th Avenue in an unincorporated part of Prince George's County, but close to the corporate limits of the Town of Cheverly. It was zoned M-U-I/D-D-O through the 2005 Approved Tuxedo Road/Arbor Street/Cheverly Metro Sector Plan and Sectional Map Amendment ("Tuxedo Road Sector Plan" or "Sector Plan"), and within that Sector Plan, it is shown as being located within Subarea B. The Subject Property is bounded by nonconforming light industrial/commercial service uses in the M-U-I Zone to the west, north and east; and by John Hanson Highway (Route 50) to the south.¹

¹ As shown on the attached site plan, the actual southern boundary of the property consists of the remnants of Lots 20-26, Block B of the Tuxedo Subdivision that seem to have been created from the taking associated with the construction of John Hanson Highway (Route 50). The cumulative total of these lots amount to approximately 1,219 sq. ft. Some lots are owned by the Stephen B. Powell Trust, while ownership of the others is uncertain. Given that

In accordance with § 27-548.26 of the Zoning Ordinance, the purpose of this detailed site plan application is to amend the Table of Uses for the M-U-I/D-D-O Zone within the Tuxedo Road Sector Plan to permit, at this location only, the existing "wholesaling or distribution of materials used or produced on the premises" and "contractor's office with outdoor storage" uses to continue. No construction or improvements to the Property are proposed as part of this application—this application is solely to allow the existing users to continue their operations at this site. These uses were established following the adoption of the Tuxedo Road Sector Plan when the Applicant was unaware these uses were prohibited upon the Subject Property.

II. PROPERTY

Applicant purchased the Subject Property believing it could be used for industrial/servicecommercial uses, based on the site improvements and neighboring uses. The Property is improved with an existing two-story brick and frame rectangular building consisting of 9,053 sq. ft. (6,790 sq. ft. on the first floor and 2,263 sq. ft. on the second floor) and associated areas for parking. Maryland Department of Assessment and Taxation shows the building was constructed in 1972, while aerial imagery confirms that the site was developed prior to 1977, and that there have been no noticeable changes since. Two tenants currently lease space within and without the building: Sodibar Systems Inc. ("Sodibar") and Chiaramonte Construction Company ("Chiaramonte"). Sodibar occupies approximately 5,000 sq. ft. of the first floor. Sodibar has been in business since 1948 (although not at this location) serving Washington, Maryland, and Virginia with carbonated and juice beverage dispensing systems and equipment. Additionally, Sodibar distributes bag-n-box syrup containers that contain various syrups including, but not limited to Coca-Cola products and various juices. The bag-n-box syrup containers for juice are produced on-site. Chiaramonte occupies the remainder of the first-floor space (approximately 1,790 sq. ft.) of the building for office space and uses the parking area upon Lots 5-8 for the storage of construction equipment and materials in connection with its general contracting operation. Two (2) six-foot high fences enclose the outdoor storage areas in use by Sodibar and Chiaramonte.

As mentioned previously, the Subject Property is located in a predominantly light industrial/service-commercial area south of the corporate limits of the Town of Cheverly. This area was zoned C-M prior to adoption of the Sector Plan in 2005. Aerial imagery, again, shows that many properties along Arbor Street were developed in the 1960s and 1970s in a manner and style befitting light industrial/service-commercial users. Notwithstanding the organic development of Arbor Street, this area—including the Subject Property—was rezoned M-U-I/D-D-O in 2005 with the hope of transforming Arbor Street area has unfortunately not been the catalyst

these lots are undevelopable, for purposes of this application, the proper southern boundary is John Hansen Highway (Route 50).

² Change 10a of the Sector implemented the M-U-I zone believing that this zone was "appropriate for mixed-use development in accordance with the sector plan's land use recommendation and General Plan recommendations for Community Centers." The D-D-O Zone was superimposed pursuant to Change 10c of the Sector Plan to "achieve the General Plan goals to provide a pedestrian-oriented, human-scale environment that will enliven the sector area, provide a community-oriented town center, and offer flexible, easy-to accommodate opportunities for future economic growth and development."

for redevelopment that the County had hoped. In the more than seventeen (17) years since the Sector Plan was adopted, no redevelopment of the area has occurred, or appears likely to occur. Since 2005, only a single development application has been approved, let alone filed, for any property within the M-U-I/D-D-O Zone. In 2006, DSP-05103 was approved to validate an existing auto storage yard for cars waiting to be repaired³ in conjunction with an existing vehicle repair shop. This application, however, was reviewed in accordance with C-M Zone requirements, not the M-U-I Zone because it involved uses that were legally existing at the time of Sector Plan adoption. Thus, even the single development application approved since 2005 avoided compliance with the M-U-I/D-D-O Zone regulations.

The hurdle to redeveloping Arbor Street—and by extension the Subject Property—cannot be overcome through zoning along, since zoning does not address the real obstacle to this area's transformation—lot assemblage. This impairment was acknowledged within the Sector Plan at the time of its adoption. Under "Issues" on page 23 of the Sector Plan, the first entry is "[a]ssembling and consolidating numerous small lots to facilitate redevelopment." Sufficient capital is needed to assemble the various properties into one coherent development scheme, and given the passage of time, and the lack of any progress in this direction, it is quite clear that the market has not developed to support the necessary assemblage, it is also clear that it is not economically viable to undertake piecemeal redevelopment of individual properties in accordance with the M-U-I/D-D-O Zone regulations. Without a market to support the properties in this area by the M-U-I/D-D-O zone, there has been little, if any, economic improvement within this area since the comprehensive rezoning seventeen (17) years ago.

The Subject Property serves as a prime example of the negative impact of the rezoning. The Applicant is unable to find tenant(s) to lease the Subject Property pursuant to the uses permitted by the Table of Uses for the M-U-I/D-D-O Zone. Moreover, redeveloping the Subject Property—at only a little more than a half-acre—as a "spec building" is likewise prohibitively expensive. Thus, at present, the only viable options for the Applicant are to allow the property to sit vacant and unproductive, or to occupy the space with illegal uses. In order to avoid this Solomonic choice, the Applicant is seeking a third option—amending the Table of Uses for the M-U-I/D-D-O Zone to allow viable economic uses upon this property until such time as a market develops to support a coherent and comprehensive development scheme for Arbor Street.

III. REQUEST FOR APPROVAL UNDER THE PRIOR ZONING ORDINANCE

Pursuant to § 27-1900 et seq. of the Current Zoning Ordinance, which took effect on April 1, 2022, an applicant is afforded the option to choose between the Current and Prior Zoning Ordinance until April 1, 2024 for review and approval. Although the applicant's choice cannot be denied, if the applicant requests review and approval under the Current Zoning Ordinance, the applicant must provide the basis for the decision. Pursuant to Section 27-1903 (c) of the Zoning

³ PGCPB Resolution No. 06-177 ("Resolution") states that the subject of DSP-05103 was zoned C-M, and that the request was reviewed in accordance with the requirements. According to the Resolution, a 2006 memo from the community planner stated that the site plan requirements of the Tuxedo Road Sector Plan were not applicable given that the existing uses were legal at the time of plan adoption.

Ordinance, the applicant is choosing to develop under the prior zoning due to the M-U-I/D-D-O Zone allowing amendments to the Table of Uses through the detailed site plan process.

IV. AMENDMENT TO THE TABLE OF USES

Pursuant to § 27-548.26 of the Zoning Ordinance, the Applicant hereby requests an amendment to the 2005 Approved Tuxedo Road/Arbor Street/Cheverly Metro Sector Plan and Sectional Map Amendment Table of Uses for the M-U-I/D-D-O Zone to add the following uses at this location:

- 1. "Wholesaling or distribution of materials used or produced on the premises"; and
- 2. "Contractor's office with outdoor storage."

V. CONFORMANCE WITH SUBMITTAL REQUIREMENTS

As set forth on page 86 of the Tuxedo Road Sector Plan, the submittal requirements for detailed site plan applications within Subarea B are the same as those required by Part 3, Division 9 of the Zoning Ordinance. Furthermore, all detailed site plan applications must include architectural elevations in conformance with building design standards, as well as demonstration that development conforms with all applicable design regulations. However, legally existing development is exempt from development district standards pursuant to Page 85 of the Sector Plan. Because no site improvements are proposed as part of this detailed site plan, and prior Use and Occupancy permits were issued for this property (most recently in 2002 under Use and Occupancy Permit No.: 42275-2002), this development is exempt from the development district standards.

VI. CONFORMANCE WITH THE ZONING ORDINANCE

A. Conformance with § 27-548.26:

This Detailed Site Plan application to revise the Table of Uses for the M-U-I/D-D-O Zone conforms to § 27-548.26 for the reasons discussed in greater detail below:

(b) Property Owner

. . .

- (1) Notwithstanding the provisions of subsection (a), above, a property owner may request that the District Council amend development requirements for the owner's property, as follows:
 - (B) An owner of property in the Development District may request changes to the underlying zones or the list of allowed uses, as modified by the Development District Standards.
 - (i) A request for changes to the underlying zone or list of allowed uses may include requested amendments to the applicable Development District Standards for the applicable D-D-O Zone.

- (ii) In determining whether to approve such amendments to the Development District Standards, the District Council shall find that the amended standards will benefit the proposed development, will further the purposes of the applicable Development District, and will not substantially impair implementation of any applicable Master Plan or Sector Plan.
- (2) The owner's application shall include:
 - (A) A statement showing that the proposed development conforms with the purposes and recommendations for the Development District, as stated in the Master Plan, Master Plan Amendment, or Sector Plan;
 - (B) A description of any requested amendments to the Development District Standards applicable to a qualifying development proposal; and
 - (C) A site plan, either the Detailed Site Plan required by Section 27-548.25 or a Conceptual Site Plan.

As mentioned previously, no new development or site improvements are proposed as part of this detailed site plan request. Therefore, in accordance with Page 85 of the Tuxedo Road Sector Plan, it is exempt from development district standards. The sole purpose of this application is to amend the Table of Uses for the M-U-I/D-D-O Zone to permit wholesaling or distribution of materials used or produced on the premises and contractor's office with outdoor storage at this location.

The Tuxedo Road Sector Plan was in approved in 2005 with the goal of transforming the existing industrial and heavy commercial development in this area that likely first occurred in the 1960's and 70's within a ¹/₄ mile radius of the Cheverly Metro Station into a "mixed-use main street infill" transit-oriented development. Of import to the subject application, the Sector Plan rezoned properties along Arbor Street to the M-U-I Zone and superimposed the Development District Overlay (D-D-O) Zone with the belief that these zones would catalyze the transformation of the area into a mixture of office, retail, residential, civic and commercial uses. But, over seventeen (17) years later, this grandiose vision has not even begun, let alone come to fruition. Despite espousing an ambitious redevelopment plan for the Arbor Street area, the Sector Plan is cognizant of the barriers to said redevelopment. The first entry under both "Issues" and "Land Use and Zoning Recommendations" on Page 23 of the Sector Plan acknowledges that redevelopment will require assembling and consolidating the small lots along Arbor Street to facilitate redevelopment. Moreover, Objective 1 on Page 23 summarizes the action plan: "[m]ake incremental land use changes as market factors change, buildings are rehabilitated, public infrastructure is improved, properties are assembled, and adjacent subareas are developed. . . Existing uses are expected to continue until redevelopment occurs." However, market demand did not develop, incremental land use changes were not made to the Arbor Street

Area, and there has been no property assemblage in this area since the approval of the M-U-I/D-D-O Zone through this Sector Plan.

Because the land use goals for the Subject Property, as espoused by the Sector Plan, are untenable, and were implemented without the proper infrastructure (as recognized by the Sector Plan) it is unreasonable to bar viable uses upon the Subject Property. Unless, and until, the required assemblage occurs, there are no economically viable uses within the M-U-*I/D-D-O zone in this Sector Plan to occupy the Subject Property, nor is it* reasonable for the Applicant to transform the only property he controls at a little more than half an acre—into the type of development envisioned by the Sector Plan. Approval of the subject application will allow the Subject Property to continue to be economically viable, at least until such time—if it ever occurs—that a large-scale assemblage that could include his property occurs. This request is aligned with the Sector Plan's own acknowledgement that incremental changes will occur when "[there are] market factor changes, buildings are rehabilitated, public infrastructure is improved, properties are assembled, and adjacent subareas are developed." This request is merely to allow the owner of the Subject Property to maintain the economic viability of this property until such time as said forces coalesce and drive change.

B. Conformance with § 27-546.19(c):

The Planning Board may not approve a detailed site plan in the M-U-I Zone unless the owner demonstrates conformance with enumerated criteria. For the reasons described in greater detail below, the subject detailed application conforms to the requirements under § 27-546.19(c):

(1) The site plan meets all approval requirements in Part 3, Division 9;

The site plan is in accordance with approval requirements in Part 3, Division 9 of the Zoning Ordinance.

(2) All proposed uses meet applicable development standards approved within the Master Plan, Sector Plan, Transit District Development Plan, or other applicable plan;

The Subject Property is exempt from development district standards since the existing improvements pre-dated the Sector Plan, and no new improvements are proposed.

(3) Proposed uses on the property will be compatible with one another;

The requested wholesaling or distribution of materials used or produced on the premises, and contractor's office with outdoor storage uses will be compatible with the existing light industrial/service-commercial uses along Arbor Street. (4) Proposed uses will be compatible with existing or approved future development on adjacent properties and an applicable Transit or Development District or Development District; and

> The proposed wholesaling or distribution of materials used or produced on the premises and contractor's office with outdoor storage upon the Subject Property will be compatible with existing or approved future development on adjacent properties. As mentioned above, the proposed uses are compatible with the existing development on adjacent properties, and the redevelopment of Arbor Street will require assembling the various lots into a coordinated development scheme.

- (5) Compatibility standards and practices set forth below will be followed, or the owner shows why they should not be applied:
 - (A) Proposed buildings should be compatible in size, height, and massing to buildings on adjacent properties;

No buildings are proposed.

(B) Primary facades and entries should face adjacent streets or public walkways and be connected by on-site walkways, so pedestrians may avoid crossing parking lots and driveways;

The primary façade of the existing building faces north towards Arbor Street. There are no sidewalks along Arbor Street, and pedestrian access is not envisioned for this location.

(C) Site design should minimize glare, light, and other visual intrusions into and impacts on yards, open areas, and building facades on adjacent properties;

No site improvements are proposed.

(D) Building materials and color should be similar to materials and color on adjacent properties and in the surrounding neighborhoods, or building design should incorporate scaling, architectural detailing, or similar techniques to enhance compatibility;

No site improvements or modifications to the existing building are proposed.

(E) Outdoor storage areas and mechanical equipment should be located and screened to minimize visibility from adjacent properties and public streets;

Outdoor storage areas on the east and west side of the property are enclosed with an existing six-foot high chain link fence. (F) Signs should conform to applicable Development District Standards or to those in Part 12, unless the owner shows that its proposed signage program meets goals and objectives in applicable plans; and

No signs are proposed as part of this application.

- (G) The owner or operator should minimize adverse impacts on adjacent properties and the surrounding neighborhood by appropriate setting of:
 - (i) Hours of operation or deliveries;
 - (ii) Location of activities with potential adverse impacts;
 - (iii) Location and use of trash receptacles;
 - (iv) Location of loading and delivery spaces;
 - (v) Light intensity and hours of illumination; and
 - (vi) Location and use of outdoor vending machines.

Given the light industrial/service-commercial nature of surrounding uses, it is not anticipated that these uses will have any impact, let alone, negative impact. Storage areas to either side of the building abut other outdoor storage areas. Dumpsters are located within the storage areas and away from Arbor Street.

VII. CONCLUSION

For all of the above-stated reasons, the Applicant respectfully requests approval of the proposed Detailed Site Plan to add the uses of "wholesaling or distribution of materials used or produced on the premises", and "contractor's office with outdoor storage" to the Table of Uses for the M-U-I/D-D-O Zone, as set forth in the Sector Plan in accordance with Subtitle 27 of the Prince George's Zoning Ordinance.

Respectfully submitted,

O'MALLEY, MILES, NYLEN & GILMORE, P.A.

Kaumer M

By:

Lawrence N. Taub, Esquire

date a

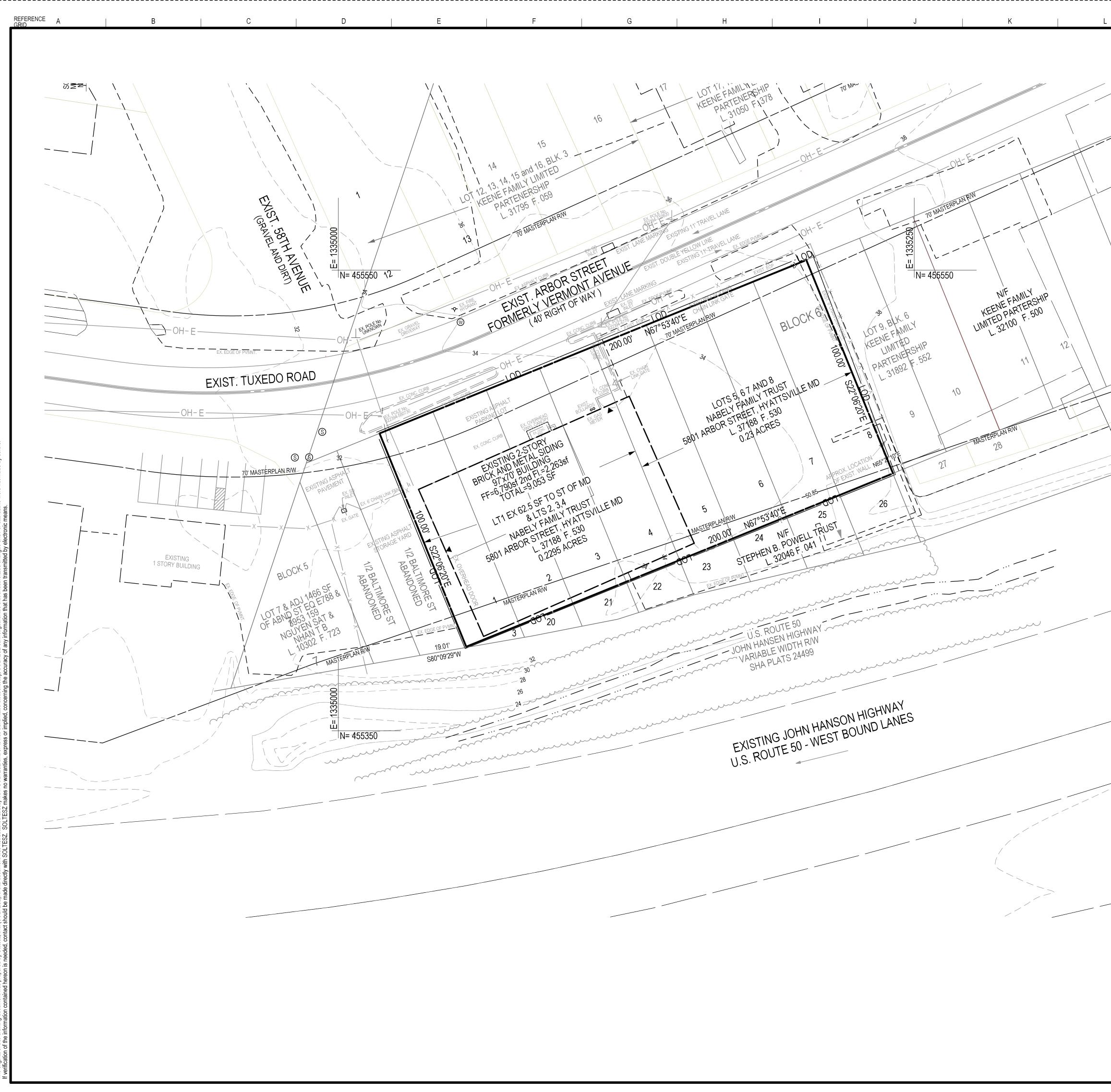
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Greenbelt, MD 20770 301-572-3248

Attorneys for Applicant

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MD Mayor & Council Salaries Comparison

Town Name/Population Laurel (28,802)		
Mayor		20,000.00
Council	\$	7,500.00
Brentwood (3,465)		
Mayor	\$	
Council	\$	4,800.00
Bladensburg (9,381)		
Mayor	\$	
Council	\$	9,600.00
Hyattsville (18,146)		
Mayor	\$	32,216.00
Council		
Seat Pleasant (4,371)		
Mayor	\$	
Council	\$	6,829.00
Greenbelt (24,114)		
Mayor		12,000.00
Council	\$	10,000.00
Glenarden (5,709)		
Mayor	\$	
Council	\$	7,200.00
Kensington (2,335)		
Mayor	\$	12,000.00
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New Windsor (1,401)	-	
Mayor	\$	
Council	\$	1,500.00
Town of Walkersville (6,874)		
Burgess		12,500.00
Commissioners	\$	3,600.00

Town of Bel Air (1,579) Chair of the Board of Commissioners Commissioners	\$ 6,000.00 \$ 4,800.00
Town of Easton (16,971) Mayor President of Council Council members	\$ 8,500.00 \$ 6,000.00 \$ 5,000.00
Frederick (268,755) Mayor Board Members	\$ 90,000.00 \$ 25,000.00
Town of North Beach (2,081) Mayor Councilmember	\$ 18,000.00 \$ 3,500.00
Salisbury (32,737) Mayor Council President Council members	\$ 50,000.00 \$ 15,000.00 \$ 12,000.00
Aberdeen (16,972) Mayor Council	\$ 15,000.00 \$ 10,000.00
Ocean City (6,927) Mayor Council President Councilmembers	\$ 30,000.00 \$ 11,000.00 \$ 10,000.00
Greensboro (1,878) Mayor Council	\$ 2,400.00 \$ 2,000.00
Denton (4,493) Mayor Council	\$ 3,600.00 \$ 3,000.00
Average Total Budget Average Mayoral Salary Average Council Member Salary	\$ 12,786.58 \$ 18,428.11 \$ 7,184.94